

**CHAPTER 1**  
**PURPOSE OF RULES, GENERAL PROVISIONS**  
**§§1.1-1.11**  
**Effective May 15, 1997**

**§1.1. Purpose of Rules.**

The purpose of the commission's rules is to implement the powers and duties of the commission under the Texas Water Code, the Texas Health and Safety Code, and other laws, to establish the general policies of the commission, and to set forth procedures to be followed in agency proceedings. The rules should be interpreted to simplify procedure, avoid delay, save expense, and facilitate the administration and enforcement of state and other laws by the agency.

Adopted May 8, 1996  
Derived from §261.2

Effective June 6, 1996

**§1.2. Construction of Rules.**

Unless otherwise expressly provided for in these rules, the past, present, and future tense shall each include the other; the masculine, feminine, and neutral gender shall each include the other; and the singular and plural number shall each include the other.

Adopted May 8, 1996  
Derived from §261.3

Effective June 6, 1996

**§1.3. Business Office and Mailing Address of the Agency.**

(a) Agency offices. The agency's offices are located at Park 35, 12100 North Interstate 35, Austin. The commission's mailing address is P.O. Box 13087, Austin, Texas 78711-3087.

(b) Chief clerk's address. The chief clerk's mailing address is: Office of Chief Clerk, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. The chief clerk's office is located in Austin, Park 35, Building F, 12015 North Interstate 35.

Adopted May 8, 1996  
Derived from §261.4

Effective June 6, 1996

**§1.4. Seal of the Commission.**

The seal of the commission will bear the words "Texas Natural Resource Conservation Commission" encircling the oak and olive branches common to other official state seals.

Adopted May 8, 1996  
Derived from §261.5

Effective June 6, 1996

### **§1.5. Records of the Agency.**

(a) Subject to the limitations provided in the acts administered by the commission and the Public Information Act and copyright law, information collected, assembled, or maintained by the agency is public record open to inspection and copying during regular business hours.

(b) If classified data of the federal government or confidential information in the records of the agency is the subject of an open records request under the Public Information Act, the executive director may submit a request to the Texas attorney general under Texas Government Code, §552.301, seeking a determination that the information is within an exception to the requirement to provide the information to the public.

(c) Subject to the limitations of this section, the agency will provide copies of its records upon request. The agency may furnish copies at the rates published in its operating procedures, or may contract for the copies to be made at the expense of the person requesting them. The agency may charge the fees specified in Texas Government Code, §603.004 for the reproduction services listed in that section. The agency may waive a charge if the cost to the agency to collect the charge will exceed the amount of the charge. Copies may be certified by the executive director or the chief clerk.

(d) Confidentiality of information.

(1) A person submitting information to the agency may request that the information be designated as classified data of the federal government, or as confidential. Each claim of classified data or confidentiality must be made upon submission, and each page must be stamped "confidential," or the material will be considered available for public review. Confidential information is information relating to trade secrets, secret processes, or economics of operation, or information that if made public would give any advantage to competitors or bidders, and includes confidential information under 5 United States Code, §552(b)(4), 18 United States Code, §1905, and special rules cited in 40 Code of Federal Regulations, §§2.301-2.309; provided, however, that the composition of any defined waste subject to the jurisdiction of the commission may not be regarded as confidential information.

(2) If the commission or executive director agrees with the designation, the agency will not provide the information for public inspection. The agency may return classified or confidential information to the person providing it if the person so requests and the information has served the purpose for which it was submitted.

(3) If a claim of classified data or confidentiality is not approved, the person submitting the information will be notified. If the person elects to withdraw the information, it will be withheld from public review until withdrawn. If the person who submitted the information is an applicant, the executive director shall not consider the information upon preparing the draft permit, and the commission and executive director shall not consider the information upon determining to grant or deny the application.

(4) The name and address of an applicant or permittee will not be considered confidential.

(5) For injection well applications, information which deals with the existence, absence, or levels of contaminants in drinking water will not be considered confidential.

(6) This section shall not be construed so as to make confidential any effluent data, including effluent data in permits, draft permits, and permit applications.

(7) For Texas pollutant discharge elimination system applications, information required relating to the contents of the application for permit will not be considered confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

(8) This section does not create privileges from discovery of documents in contested case hearings under Chapter 80 of this title (relating to Contested Case Hearings).

Adopted May 8, 1996  
Derived from §§261.9, 261.10, 261.11, and New

Effective June 6, 1996

#### **§1.6. Inscriptions on Commission Vehicles.**

Vehicles under the care and custody of the commission and used primarily in the detection and investigation of criminal violations of state and federal environmental laws are exempt from bearing the inscription required by Transportation Code, §721.002. The purpose of this exemption is to increase the effectiveness of commission investigators in detecting and investigating criminal violations of state and federal environmental laws, thereby allowing investigative personnel to accomplish their tasks undetected and to provide a greater degree of safety for these investigators, the state property being used in the investigation, and a greater degree of case integrity.

Adopted May 8, 1996  
Derived from §261.13

Effective June 6, 1996

#### **§1.7. Computation of Time.**

In computing any period of time prescribed or allowed by commission regulation or orders or by any applicable statute, the period shall begin on the day after the act, event, or default in question and shall conclude on the last day of that designated period, unless it is a Saturday, Sunday, or legal holiday on which the office of the chief clerk is closed, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a legal holiday on which the office of the chief clerk is closed.

Adopted May 8, 1996  
Derived from §261.19

Effective June 6, 1996

**§1.8. Initiation of proceeding.**

A person who wishes to initiate a proceeding at the agency should submit a written request to the executive director. The commission's rules set forth the requirements for the specific types of proceedings and the commission's or executive director's final action thereon.

Adopted May 8, 1996

Effective June 6, 1996

Derived from §265.44 and New

**§1.9. Docket System.**

The chief clerk shall assign a docket number to each matter scheduled for consideration during a commission meeting or contested case referred to SOAH.

Adopted May 8, 1996

Effective June 6, 1996

Derived from §261.16

**§1.10. Document Filing Procedures.**

(a) All documents to be considered in a commission meeting or by judges in contested cases shall be filed with the chief clerk. Hearing requests and responses shall also be filed with the chief clerk.

(b) If a docket number has been assigned, it should appear on the first page of all filed documents.

(c) Documents shall be filed by United States mail, facsimile, or hand delivery. If a person files a document by facsimile, he or she must file with the chief clerk the appropriate number of copies by mail or hand delivery within three days.

(d) The original or one copy of a document shall be filed, except for documents to be considered at a commission meeting. For documents to be considered at a commission meeting, 11 copies shall be filed.

(e) The time of filing is upon receipt by the chief clerk as evidenced by the date stamp affixed to the document by the chief clerk, or as evidenced by the date stamp affixed to the document or envelope by the commission mail room, whichever is earlier.

(f) The chief clerk shall accept all documents presented for filing. The chief clerk's acceptance is not a determination that a document meets filing deadlines or other requirements.

(g) If the requirements of this section are not followed, the commission, or a judge in a SOAH proceeding, may choose not to consider the documents. In the absence of a waiver under subsection (h) of this section, the commission may choose not to consider documents filed within two days of a commission meeting.

(h) The judge may waive one or more of the requirements of this section, or impose additional filing requirements in SOAH proceedings. The commission or general counsel may waive one or more of the requirements of this section, or impose additional filing requirements for commission meetings.

(i) This section does not apply to offers of evidence during a hearing.

Adopted April 16, 1997  
Derived from §261.17

Effective May 15, 1997

**§1.11. Service on Judge, Parties, and Interested Persons.**

(a) For responses and replies to responses concerning hearing requests filed under Chapter 55 of this title (relating to Request for Contested Case Hearing), copies of all documents filed with the chief clerk shall be served on the executive director, the public interest counsel, the applicant, and any persons filing hearing requests, no later than the day of filing.

(b) For contested case hearings referred to SOAH, copies of all documents filed with the chief clerk shall be served on the judge and all parties or their representatives no later than the day of filing.

(c) All documents filed and served under these rules, except as otherwise expressly provided in these rules, may be served by delivering a copy to the party to be served, or the party's duly authorized agent or attorney of record, as the case may be, either in person or by agent or by courier-receipted delivery or by mail, to the party's last known address, or by telephonic document transfer to the recipient's current telecopier number, or by such other manner as the commission or judge in their discretion may direct.

(d) Service by mail is complete upon deposit of the document, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. Service by courier-receipted delivery is complete upon the courier taking possession. Service by telephonic document transfer after 5:00 p.m. local time of the recipient shall be deemed served on the following day. Service by telephonic document transfer must be followed by serving an extra copy in person, by mail, or by carrier receipted delivery within one day. Judges may impose different service requirements in SOAH proceedings.

(e) Whenever a party has the right or is required to do some act within a prescribed period after the service of a document upon the party and the document is served by mail or by telephonic document transfer, three days shall be added to the prescribed period. Three days will not be added when documents are filed for consideration in a commission meeting.

(f) The party or attorney of record shall certify compliance with this rule in writing over signature and on the filed instrument. A certificate by a party or an attorney of record, or the return of an officer, or the affidavit of any person showing service of a document shall be prima facie evidence of the fact of service.

(g) Nothing herein shall preclude any party from offering proof that the notice or instrument was not received, or, if service was by mail, that it was not received within three days from the date of deposit in a post office or official depository under the care and custody of the United States Postal Service, and upon so

finding, the commission or judge may extend the time for taking the action required of such party or grant such other relief as they deem just. The provisions hereof relating to the method of service of notice are cumulative of all other methods of service prescribed by these rules.

Adopted May 8, 1996  
Derived from §261.18 and New

Effective June 6, 1996

**Derivation Table**  
**Chapter 1 - Purpose of Rules, General Provisions**

This table is to be used to track sections after rule revisions. The column on the left should list the sections after the revision. The column on the right should list where the section was prior to the revision.

<b>New Section</b>	<b>Old Section</b>
1.1	261.2
1.2	261.3
1.3	261.4
1.4	261.5
1.5 (a)	261.9
1.5 (b)	New
1.5 (c)	261.11(a), 261.10(b), & New
1.5 (d)	261.10 (a), 261.11 (b)
1.6	261.13
1.7	261.19
1.8	265.44, New
1.9	261.16
1.10	261.17
1.11	261.18, New